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From-MARTIN&FERRAROLLP

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Certificate

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of Correction

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(330) 877-2030

MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

FACSIMILE TRANSMITTAL

TO:

Name: Office of Patent Publication
Certificate of Corrections Branch

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: Request for Certificate of Correction

U.S. Patent No. 7,127,835

Issue Date: October 31, 2006

David F. Meschan

ATHLETIC SHOE WITH IMPROVED HEEL
STRUCTURE

Attorney Docket No. 104.0004-03000

Customer No. 22882

Confirmation No.: 3765

FROM:

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 22

Date: May 31, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Request for Certificate of Correction with 2 sheets of Form PTO-1050 (in duplicate) and 15 sheets of supporting documents are being facsimile transmitted to the U.S. Patent and Trademark Office on May 31, 2007.


Sandra L. Blackmon

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JUN - 4 2007

PATENT
Attorney Docket No. 104.0004-03000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of:)
David F. Meschan) (Serial No.: 10/735,343)
Patent No.: 7,127,835)
Issue Date: October 31, 2006) (Filed: December 11, 2003)
For: ATHLETIC SHOE WITH IMPROVED)
HEEL STRUCTURE)

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Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves two (2) pages.

The mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Pages 3-6 of IDS Form PTO-1449 filed on September 1, 2004 showing the correct listing of the cited references.
2. Page 18 of the September 1, 2004 Amendment showing the correct language of the abstract;
3. IDS Form PTO-1449 filed on July 27, 2005 showing the correct listing of missing references;
4. Page 3 of the IDS Form PTO-1449 filed on February 1, 2005 showing the correct listing of missing references;
5. Pages 5 and 6 of the July 27, 2005 Amendment showing the correct language of issued claims 1 and 4 (pending claims 184 and 187, respectively);

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Patent No. 7,127,835
Request dated May 31, 2007

6. Page 8 of the July 27, 2005 Amendment showing the correct language of issued claims 20 and 22 (pending claims 203 and 205, respectively);
7. Pages 9 and 10 of the July 27, 2005 Amendment showing the correct language of issued claims 32, 35, 37, and 38 (pending claims 215, 217, 219, and 220, respectively);
8. Page 11 of the July 27, 2005 Amendment showing the correct language of issued claims 40, 45, and 47 (pending claims 222, 227, and 229, respectively);
9. Page 12 of the July 27, 2005 Amendment showing the correct language of issued claim 56 (pending claim 238); and
10. Page 13 of the July 27, 2005 Amendment showing the correct language of issued claim 62 (pending 244).

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: May 31, 2007

By: 
Thomas H. Martin
Registration No. 34,383

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Hartville, Ohio 44632
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PTO/SB/44 (04-05)
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,127,835
APPLICATION NO. : 10/735,343
ISSUE DATE : October 31, 2006
INVENTOR(S) : David F. Meschan

Page 1 of 2

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page 1, Column 1:

U.S. Patent Documents, line 3: change "Such" to --Buch--.

Title Page 1, Column 2:

Other Publications, line 2: delete "Intern-";
Other Publications, line 3: change "tional" to --International--;
Abstract, line 4: change "planer" to --planar--; and
Abstract, line 17: change "vold" to --void--.

Title Page 2, Column 1:

U.S. Patent Documents, line 22: change "Robldoux" to --Robidoux--;
U.S. Patent Documents, line 28: change "8/1935" to --6/1935--;
U.S. Patent Documents, line 30: change "8/1938" to --6/1938--;
U.S. Patent Documents, line 57: change "3,206,163" to --3,208,163--;
U.S. Patent Documents, line 66: change "Gillkin" to --Gillikin--;
U.S. Patent Documents, line 67: change "Frattallone" to --Frattallone--.

Title Page 3, Column 2:

Other Publications, line 37: change "Subblefield" to --Stubblefield--.

Title Page 4, Column 2:

Other Publications: insert --TURNTEC Brochure; The New State of the Art; American Sporting Goods Corp.--;
Other Publications: insert --Affidavit of Jerry Turner dated December 19, 2004; Akeva, L.L.C. v. Adidas America, Inc.; Civil Action No. 1:03-cv-01207.--;

Column 14:

Line 18: change "bottom, an" to --bottom, and--; and
Line 49: change "result from" to --results from--.

Column 15:

Line 41: change "to wall" to --top wall--; and
Line 50: change "through at" to --through the at--.

Column 16:

Line 24: change "the least" to --the at least--; and
Line 37: change "all" to --wall--.

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PTO/SB/44 (04-05)
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
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ISSUE DATE : October 31, 2006
INVENTOR(S) : David F. Meschan

Page 2 of 2

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 17:

Line 6: change "mine distance" to --mined distance--; and change "top end" to --top and--;
Lines 7 and 12: change "result from" to --results from--;
Line 20: change "outside the shoes" to --outside the shoe--;
Line 39: change "bottom well" to --bottom wall--; and
Line 47: change "in visible" to --in part visible--.

Column 18, line 15:

Line 15: change "on opening" to --one opening--; and
Line 35: change "non-planer" to --non-planar--.

MAILING ADDRESS OF SENDER:
Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

PATENT NO. 7,127,835
JUN - 4 2007

PTO/SB/44 (04-05)
(Also Form PTO-1050)UNITED STATES PATENT AND TRADEMARK OFFICE
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Title Page 4, Column 2:

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Other Publications: insert --Affidavit of Jerry Turner dated December 19, 2004; Akeva, L.L.C. v. Adidas America, Inc.; Civil Action No. 1:03-cv-01207.--;

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ISSUE DATE : October 31, 2006
INVENTOR(S) : David F. Meschan

Page 2 of 2

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MAILING ADDRESS OF SENDER:

Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

PATENT NO. 7,127,835

JUN - 4 2007

	4,486,964	12/1984	Rudy		
	4,455,766	06/1984	Rubens		
	4,455,765	06/1984	Sjosward		
	4,449,307	05/1984	Stubblefield		
	4,429,474	02/1984	Metro		
	4,414,763	11/1983	Bente		
	4,399,620	08/1983	Funck		
	4,393,605	07/1983	Spreng		
	4,391,048	07/1983	Lutz		
	4,378,643	04/1983	Johnson		
	4,377,042	03/1983	Bauer		
	4,372,058	02/1983	Stubblefield		
	4,363,177	12/1982	Boros		
	4,342,158	08/1982	McMahon et al.		
	4,322,895	04/1982	Hockerson		
	4,322,894	04/1982	Dykes		
	4,320,588	03/1982	Sottolana		
	4,288,929	09/1981	Norton et al.		
	4,267,650	05/1981	Bauer		
	4,263,728	04/1981	Frecentese		
	4,262,434	04/1981	Michelotti		
	4,258,480	03/1981	Famolare, Jr.		
	4,224,749	09/1980	Diaz-Cano		
	4,214,384	07/1980	Gonzalez		
	4,168,585	09/1979	Gleichner		
	4,102,061	07/1978	Saaristo		
	4,098,011	07/1978	Bowerman		
	4,067,123	01/1978	Minihane		
	4,062,132	12/1977	Klimaszewski		
	4,043,058	08/1977	Hollister et al.		
	3,988,840	11/1976	Minihane		
	3,928,881	12/1975	Bente		
	3,804,099	04/1974	Hall		
	3,782,010	01/1974	Frattallone		
	3,775,874	12/1973	Bonneville		
X	3,664,041	05/1972	Frattallone		X
X	3,646,497	02/1972	Gillikin		X
	3,593,436	05/1969	Vietas		

	3,566,489	03/1969	Morley			
	3,514,879	06/1970	Frattallone			
	3,478,447	11/1969	Gilead			
	3,455,038	07/1969	Kasdan			
	3,318,025	05/1967	Antelo			
	3,271,885	09/1966	McAuliffe			
	3,237,321	03/1966	McKinley			
X	3,208,163	09/1965	Rubens			X
	3,171,218	03/1965	D'Urbano			
	3,169,327	02/1965	Fukuoka			
	3,087,265	04/1963	McKinley			
	3,085,359	04/1963	Rubens			
	3,083,478	04/1963	Rakus			
	2,998,661	09/1961	Israel			
	2,806,302	09/1957	Sharpe			
	2,745,197	05/1956	Holt			
	2,707,341	05/1955	Romano			
	2,628,439	02/1953	Rochlin			
	2,607,134	08/1952	Langer			
	2,556,842	06/1951	Gilmour			
	2,540,449	02/1951	Kaufmann			
	2,508,318	05/1950	Wallach			
	2,500,302	03/1950	Vicente			
	2,491,280	12/1949	Roth			
	2,447,603	08/1948	Snyder			
	2,446,627	08/1948	Bier			
	2,374,954	05/1945	Pipitone			
	2,300,635	11/1942	Shepherd			
	2,288,168	08/1942	Leu			
	2,208,260	07/1940	Hayden			
	2,148,974	02/1939	Wysowski			
X	2,119,807	06/1938	Farley			X
	2,078,311	04/1937	Boag			
X	2,003,646	06/1935	De Blasio			X
	2,002,087	05/1935	Esterson			
	1,811,641	06/1931	Marcelle			
	1,721,714	07/1929	Ross			
	1,625,048	04/1927	Hock			

JUN 14 2007

	1,611,024	12/1926	Grimaldi			
*	1,542,174	06/1925	Robidoux			*
	1,516,384	11/1924	Kamada			
	1,501,765	07/1924	Freese			
	1,479,773	01/1924	Craig			
	1,458,257	06/1923	Van Melle			
	1,444,677	02/1923	Fischer			
	1,439,758	12/1922	Redman			
	1,439,757	12/1922	Redman			
	1,410,064	03/1922	Hunt			
	1,371,339	03/1921	Amtz et al.			
	1,366,601	01/1921	Sellars			
	1,346,841	07/1920	Padden			
	1,318,247	10/1919	Victor			
	1,316,505	09/1919	O'Neill			
	1,112,635	10/1914	May			
	1,088,328	02/1914	Cuccinotta			
	1,062,338	05/1913	Kane			
	1,046,815	12/1912	Lavoie			
	990,458	04/1911	Scholl			
	818,861	04/1906	Beck et al.			
	789,089	05/1905	Frank			
	652,887	07/1990	Butterfield			
	674,636	05/1901	Priestman			
	537,492	04/1895	Smith			
	485,813	11/1892	Hooper			
*	357,062	02/1887	Buch			*
	221,592	11/1879	Mitchell et al.			
	48,682	07/1865	Hayward et al.			
	Re. 33,648	07/1991	Brown			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
	533 972	03/1922	France			
	2 742 138	03/1979	Germany			
	2 154 951	05/1973	Germany			
	947 054	07/1956	Germany			
	693 394	07/1940	Germany			

JUN 14 2007

	648 339	07/1937	Germany			
	2 144 024	02/1985	Great Britain			
	1 540 926	02/1979	Great Britain			
	229 884	03/1924	Great Britain			
	63 342	02/1911	Great Britain			
	25 728	11/1909	Great Britain			
	5-18965	05/1993	Japan			Yes
	62-41601	10/1987	Japan			Yes
	62-200904	12/1987	Japan			Partial
	434 029	10/1967	Switzerland			
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)						
	"New Footwear Concepts" by E.I. du Pont de Nemours & Co. (1988) Etonic Spring 1996 Footwear catalogue					
X	International Search Report for International Application PCT/US94/09001					
	Etonic Spring 1996 Footwear catalogue.					
	Mizuno Sport Shoe Catalog (1986).					
	Etonic Spring Sport Shoe Catalog; page 4; (1993).					
	Expert Declaration of: Jerry D. Stubblefield dated July 30, 2002.					
	AVIA 1989 Catalog excerpt.					
	AVIA Fall 1991 Footwear Catalog.					
	Declaration of Takaya Kimura (Civil Action File No. 1:00 CV 00978).					
	Mizuno 1985 Sports Shoe catalog excerpts (MIZJP 02524-02531).					
	Mizuno 1986 Sports Shoe catalog excerpts (MIZJP 02532-02537).					
	Mizuno 1987 Athletic Footwear catalog excerpts (MIZJP 02538-02546).					
	Mizuno 1988 Athletic Footwear catalog excerpts (MIZJP 02547-02549).					
	Mizuno 1991 All Line-Up catalog excerpts (MIZJP 02550-02556).					
	Mizuno 1992 Run-Bird All Line-Up catalog excerpts (MIZJP 02557-02559).					
	Mizuno 1993 All-Line-Up catalog excerpts (MIZJP 02560-02564).					
	Runner's World 1989 Spring Shoe Survey (MIZ 135893 - MIZ 135902).					
	4 photographs of shoes sold in the United States prior to the filing date of the above-referenced application.					
EXAMINER			DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.						

JUN - 4 2007

Application No. 10/735,343
Amendment dated September 1, 2004

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Amendments to the Abstract:

Please replace the abstract currently on file with the following amended abstract:

~~A shoe includes a rear sole support for receiving a replaceable rear sole to provide longer wear. The shoe may also include a flexible plate supported by the rear sole support between the heel and the rear sole to reduce midsole compression and provide additional spring. A mounting member secures the rear sole to the rear sole support, and a locking member prevents rotation of the rear sole relative to the rear sole support during use. The replaceable rear sole and the flexible plate allow the shoe to be adapted to different desired performance characteristics depending upon the intended activity and terrain or playing surface.~~ has an upper and a sole including a member having a top wall with a lower surface. The member has a bottom wall with an upper surface. The bottom wall has at least two portions approximately planar with each other, parallel with the ground, and separated by a gap therebetween. The top wall and the bottom wall each are connected at a closed end by a curved wall proximate the mid-foot region of the shoe. The top, bottom, and curved walls are integral. The top and bottom walls are spaced a distance from each other so that during the wearer's gait cycle when the shoe is in contact with the ground the predetermined distance is reduced. The sole includes at least one element positioned between the top wall and the bottom wall. The element has an interior sidewall. A void is located beneath the lower surface of the top wall and above the upper surface of the bottom wall and defined at least in part by the interior sidewall of the element. At least one opening is in communication with the void on at least one of the medial and lateral sides of the shoe. The sole includes a bottom surface that is at least in part ground-engaging.

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OMB 0651-0031

Substitute for FORM PTO-1449			Attorney Docket Number 104.0004-03000		Customer No. 22882	
INFORMATION DISCLOSURE CITATION IN AN APPLICATION			Applicant David F. Meschan		Application Number 10/735,343	
(Use several sheets if necessary) Sheet 1 of 1			Filing Date December 11, 2003		Group Art Unit 3728	Examiner T. Kavanaugh
U.S. PATENT DOCUMENTS						
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
FOREIGN PATENT DOCUMENTS						
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)						
Lit. 3	* TURNTEC Brochure; The New State of the Art; American Sporting Goods Corp.					
Lit. 3	* AFFIDAVIT OF JERRY TURNER dated December 10, 2004; Akeva, L.L.C. v. Adidas America, Inc.; Civil Action No. 1:03-cv-01207.					
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JUN 4 2007

	33-9431	10/1958	Japan			Partial
	434 029	10/1967	Switzerland			Partial
Lit. 3	WO 95/20333	8/1995	WIPO			N/A
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)						
Lit. 1	AVIA "Ultra Running" concepts dated December 18, 1986.					
Lit. 1	AVIA "Heel Tension Member" technical drawings dated January 9, 1987.					
Lit. 1	AVIA ARC Shoe (photo; bottom view); sold in 1989.					
Lit. 1	AVIA ARC Shoe (photo; cross section of heel); sold in 1989.					
Lit. 1	AVIA ARC Shoe (photo; bottom view with wave plate); sold in 1989.					
Lit. 1	AVIA ARC Shoe (photo; cross section of heel with wave plate); sold in 1989.					
Lit. 1	AVIA 1989 Catalog excerpt.					
Lit. 1	AVIA Fall 1991 Footwear Catalog.					
	Declaration of Jerry D. Stubblefield dated December 4, 2002.					
Lit. 1	Drawing of Mizuno shoe with plate and opening in bottom of shoe dated January 3, 1991					
X	Expert Declaration of: Jerry D. Stubblefield dated October 7, 2002.					X
Lit. 1	Etonic Spring Sport Shoe Catalog; page 4; (1993)					
Lit. 1	Mizuno Sport Shoe Catalog (1986).					
Lit. 1	Mizuno 1985 Sports Shoe catalog excerpts (MIZJP 02524-02531).					
Lit. 1	Mizuno 1986 Sports Shoe catalog excerpts (MIZJP 02532-02537).					
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Lit. 1	Mizuno 1991 All Line-Up catalog excerpts (MIZJP 02550-02556).					
Lit. 1	Mizuno 1992 Run-Bird All Line-Up catalog excerpts (MIZJP 02557-02559).					
Lit. 1	Mizuno 1993 All-Line-Up catalog excerpts (MIZJP 02560-02564).					
	Report of Keith R. Williams with Exhibits A-G, dated September 8, 2004.					
Lit. 1	Runner's World 1989 Spring Shoe Survey and ETONIC and AVIA advertisements (MIZ 135893 - MIZ 135902).					
	TURNTEC 1993 Brochure (TURNTEC 93).					
	TURNTEC 1993 Brochure (TURNTEC 1993).					
	TURNTEC advertisement for "The Predator".					
Lit. 3	"TECHNOLOGY: Cushion of steel puts the spring in high heels"; New Scientist; Vol. 133, No. 1813; 21 March 1992; pp. 1 and 22.					
EXAMINER		DATE CONSIDERED				
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JUN - 4 2007

Application No. 10/735,343
Amendment dated July 27, 2005

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-183. (cancelled)

184. (currently amended) A shoe comprising:

an upper, and

a rear sole secured below a portion of the upper, the rear sole comprising:

a member having a top wall with a lower surface, the top wall having at

least one peripheral edge proximate a medial side of the shoe and at least one peripheral edge proximate a lateral side of the shoe, the peripheral edges of the top wall having a mid-longitudinal axis therebetween, the mid-longitudinal axis of the peripheral edges of the top wall including a point that is vertically aligned with the approximate center of the wearer's heel, the member having a bottom wall with an upper surface, the bottom wall having at least two portions approximately planar with each other, parallel with the ground, and separated by a gap therebetween, the top wall and the bottom wall each having a forward region and a rearward region, the forward regions of the top and bottom walls being connected at a closed end by a curved wall; the top, bottom, and curved walls being integral, the rearward regions of each of the top and bottom walls being separated from one another to define an open end therebetween, the open end being oriented away from the curved wall toward a back of the shoe, the rearward region of the top and bottom walls being separated from one another at an open end, at least a portion of the top and bottom walls being spaced a predetermined distance from each other such that during the wearer's gait cycle when the shoe is in contact with the ground the predetermined distance between the at least a portion of the top and bottom walls is reduced;

Application No. 10/735,343
Amendment dated July 27, 2005

at least one element positioned between at least a portion of the top wall and at least a portion of the bottom wall, the at least one element having a top, a bottom and at least one interior sidewall;



a void located beneath at least a portion of the top wall defined at least in part by the at least one interior sidewall of the at least one element;

at least one opening on at least one of the medial and lateral sides of the shoe, the opening being in air communication with the void; and

a bottom surface that is at least in part ground-engaging.

185. (previously presented) The shoe of claim 184, wherein a cross-sectional profile of the top and bottom walls that are connected at the closed end by the curved wall is generally in a recumbent U-shape.

186. (previously presented) The shoe of claim 184, wherein the reduced predetermined distance between the at least a portion of the top and bottom walls results from the at least a portion of one of the top and bottom walls deflecting toward the other in a substantially vertical direction.

 187. (previously presented) The shoe of claim 184, wherein the reduced predetermined distance between the at least a portion of the top and bottom walls results from the at least a portion of the top wall deflecting toward the ground in a substantially vertical direction. 

188. (previously presented) The shoe of claim 184, wherein the top wall has at least one peripheral edge proximate the rear of the shoe.

189. (currently amended) The shoe of claim 188, wherein the at least one peripheral edge of the top wall proximate one of the medial side of the shoe, the lateral side of the shoe, and the rear of the shoe is visible from outside the shoes.

190. (previously presented) The shoe of claim 184, wherein the bottom wall has at least one peripheral edge proximate one of the medial side of the shoe and the lateral side of the shoe.

191. (previously presented) The shoe of claim 190, wherein the at least one peripheral edge of the bottom wall is at least in part visible from outside the

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201. (previously presented) The shoe of claim 200, wherein the cushion is located at least in part beneath the approximate center of the wearer's heel.
202. (previously presented) The shoe of claim 201, wherein the cushion is located beneath and adjacent at least a portion of the upper.
203. (previously presented) The shoe of claim 184, wherein the lower surface of the top wall is at least in part visible from outside the shoe through the at least one opening on one of the medial and lateral sides of the shoe. *
204. (previously presented) The shoe of claim 184, wherein the upper surface of the bottom wall is at least in part visible from outside the shoe through the at least one opening on at least one of the medial and lateral sides of the shoe.
205. (previously presented) The shoe of claim 184, wherein the interior sidewall of the at least one element is at least in part visible from outside the shoe through the at least one opening in one of the medial and lateral sides of the shoe. *
206. (previously presented) The shoe of claim 184, wherein the at least one interior sidewall of the at least one element is at least in part visible from outside the shoe.
207. (previously presented) The shoe of claim 184, wherein an entire portion of the top wall over the at least one element is solid.
208. (previously presented) The shoe of claim 184, wherein the top wall has an opening beneath the wearer's heel.
209. (previously presented) The shoe of claim 208, wherein the opening in the top wall is visible at least in part through the at least one opening on at least one of the medial and lateral sides of the shoe.
210. (currently amended) The shoe of claim ~~184~~208, wherein the bottom surface of the rear sole has a non-ground-engaging portion that is vertically aligned with at least a portion of the calcaneus of the wearer of the shoe~~opening in the top wall~~.
211. (previously presented) The shoe of claim 210, wherein the non-ground-engaging portion of the bottom surface of the rear sole is located at least in part between the at least two portions of the bottom wall.

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212. (previously presented) The shoe of claim 210, wherein the non-ground-engaging portion of the bottom surface of the rear sole comprises a substantially planar portion and an adjacent portion non-planar with the planar portion.

213. (currently amended) The shoe of claim 212210, wherein the non-ground-engaging portion of the bottom surface of the rear sole comprises a tent-shaped portion extending toward the top wall.

214. (previously presented) The shoe of claim 213, wherein the tent-shaped portion extending toward the top wall has at least one sidewall at an angle to the at least in part ground-engaging portion of the bottom surface, the at least one interior sidewall of the at least one element being at an angle to the at least in part ground-engaging portion of the bottom surface, the at least one sidewall of the tent-shaped portion being adjacent the at least one interior sidewall of the at least one element.

215. (previously presented) The shoe of claim 214, wherein the angle of the at least one sidewall of the tent-shaped portion that is adjacent the at least one interior sidewall of the at least one element is approximately the same as the angle of the at least one interior sidewall of the at least one element that is adjacent the at least one sidewall of the tent-shaped portion.

216. (previously presented) The shoe of claim 184, wherein the at least in part ground-engaging portion of the bottom surface is formed of outsole material.

217. (currently amended) A shoe comprising:

an upper, and

a rear sole secured below a portion of the upper, the rear sole comprising:

a member having a top wall with a lower surface, the top wall having at least one peripheral edge proximate a medial side of the shoe and at least one peripheral edge proximate a lateral side of the shoe, the peripheral edges of the top wall having a mid-longitudinal axis therebetween, the top wall having an opening beneath the wearer's heel, the mid-longitudinal axis of the peripheral edges of the top wall including a point that is vertically aligned with the

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approximate center of the opening in the top wall and the approximate center of the wearer's heel, the member having a bottom wall with an upper surface, the bottom wall having at least two portions approximately planar with each other, parallel with the ground, and separated by a gap therebetween, the top wall and the bottom wall each having a forward region connected at a closed end by a curved wall; the top, bottom, and curved walls being integral, at least a portion of the top and bottom walls being spaced a predetermined distance from each other such that during the wearer's gait cycle when the shoe is in contact with the ground the predetermined distance between the at least a portion of the top and bottom walls is reduced;

a void located beneath at least a portion of the opening in the top wall defined at least in part by a material positioned between at least a portion of the top wall and at least a portion of the bottom wall, at least a portion of the void being vertically aligned with the approximate center of the opening in the top wall;

at least one opening on at least one of the medial and lateral sides of the shoe, the opening being in air communication with the void; and

a bottom surface that is at least in part ground-engaging.

218. (previously presented) The shoe of claim 217, wherein a cross-sectional profile of the top and bottom walls that are connected at the closed end by the curved wall is generally in a recumbent U-shape.

* 219. (previously presented) The shoe of claim 217, wherein the reduced predetermined distance between the at least a portion of the top and bottom walls results from the at least a portion of one of the top and bottom walls deflecting toward the other in a substantially vertical direction. *

* 220. (previously presented) The shoe of claim 217, wherein the reduced predetermined distance between the at least a portion of the top and bottom walls results from the at least a portion of the top wall deflecting toward the ground in a substantially vertical direction. *

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221. (previously presented) The shoe of claim 217, wherein the top wall has at least one peripheral edge proximate the rear of the shoe.

* 222. (currently amended) The shoe of claim 221, wherein the at least one peripheral edge of the top wall proximate one of the medial side of the shoe, the lateral side of the shoe, and the rear of the shoe is visible from outside the shoe. *

223. (previously presented) The shoe of claim 217, wherein the bottom wall has at least one peripheral edge proximate one of the medial side of the shoe and the lateral side of the shoe.

224. (previously presented) The shoe of claim 223, wherein the at least one peripheral edge of the bottom wall is at least in part visible from outside the shoe.

225. (previously presented) The shoe of claim 217, wherein one of the at least two portions of the bottom wall has at least one peripheral edge proximate the medial side of the shoe and another of the at least two portions of the bottom wall has at least one peripheral edge proximate the lateral side of the shoe, the peripheral edges being approximately parallel with each other.

226. (previously presented) The shoe of claim 225, wherein the peripheral edges of the at least two portions of the bottom wall proximate the medial side and lateral side of the shoe are at least in part visible from outside the shoe.

* 227. (previously presented) The shoe of claim 225, wherein each of the at least two portions of the bottom wall has an interior edge, the interior edges of the at least two portions of the bottom wall being substantially planar with each other and substantially parallel with the ground. *

228. (previously presented) The shoe of claim 217, wherein the curved wall has at least one peripheral edge proximate one of the medial side of the shoe and the lateral side of the shoe.

* 229. (previously presented) The shoe of claim 228, wherein the at least one peripheral edge of the curved wall is at least in part visible from outside the shoe. *

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230. (previously presented) The shoe of claim 217, wherein the curved wall has a mid-longitudinal axis, with an opening along the mid-longitudinal axis of the curved wall.
231. (previously presented) The shoe of claim 217, wherein the curved wall is approximately perpendicular to the major longitudinal axis of the shoe.
232. (previously presented) The shoe of claim 217, further comprising a cushion positioned beneath the wearer's heel and above at least a portion of the top wall of the member, the cushion and the top wall each being made of a material, the material of the cushion being more resilient than the material of the top wall.
233. (previously presented) The shoe of claim 232, wherein the cushion has an upper surface conforming in shape to the bottom surface of the wearer's heel.
234. (previously presented) The shoe of claim 233, wherein the cushion is located at least in part beneath the approximate center of the wearer's heel.
235. (previously presented) The shoe of claim 234, wherein the cushion is located beneath and adjacent at least a portion of the upper.
236. (previously presented) The shoe of claim 217, wherein the opening in the top wall is visible at least in part through the at least one opening on at least one of the medial and lateral sides of the shoe.
237. (previously presented) The shoe of claim 217, wherein the lower surface of the top wall is at least in part visible from outside the shoe through the at least one opening on one of the medial and lateral sides of the shoe.
- * 238. (previously presented) The shoe of claim 217, wherein the upper surface of the bottom wall is at least in part visible from outside the shoe through the at least one opening on at least one of the medial and lateral sides of the shoe. *
239. (previously presented) The shoe of claim 217, wherein the material is at least in part visible from outside the shoe through the at least one opening in one of the medial and lateral sides of the shoe.
240. (previously presented) The shoe of claim 217, wherein the material is at least in part visible from outside the shoe.

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241. (previously presented) The shoe of claim 217, wherein an entire portion of the top wall over the material is solid.
242. (currently amended) The shoe of claim 217, wherein the bottom surface of the rear sole has a non-ground-engaging portion that is vertically aligned with at least a portion of the calcaneus of the wearer of the shoe opening in the top wall.
243. (previously presented) The shoe of claim 242, wherein the non-ground-engaging portion of the bottom surface of the rear sole is located at least in part between the at least two portions of the bottom wall.
- * 244. (previously presented) The shoe of claim 242, wherein the non-ground-engaging portion of the bottom surface of the rear sole comprises a substantially planar portion and an adjacent portion non-planar with the planar portion. *
245. (currently amended) The shoe of claim ~~244~~242, wherein the non-ground-engaging portion of the bottom surface of the rear sole comprises a tent-shaped portion extending toward the top wall.
246. (previously presented) The shoe of claim 245, wherein the tent-shaped portion extending toward the top wall has at least one sidewall at an angle to the at least in part ground-engaging portion of the bottom surface, a portion of the material being at an angle to the at least in part ground-engaging portion of the bottom surface, the at least one sidewall of the tent-shaped portion being adjacent the portion of the material.
247. (previously presented) The shoe of claim 246, wherein the angle of the at least one sidewall of the tent-shaped portion that is adjacent the portion of the material is approximately the same as the angle of the portion of the material that is adjacent the at least one sidewall of the tent-shaped portion.
248. (previously presented) The shoe of claim 217, wherein the at least in part ground-engaging portion of the bottom surface is formed of outsole material.
249. (new) The shoe of claim 184, wherein the void is defined at least in part by a portion of the lower surface of the top wall which is in air communication with the outside of the shoe through the void.

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